

Atty Dkt. No.: YAMA-001 CON9
USSN: 09/42,032**BEST AVAILABLE COPY****REMARKS**

Claims 29-68 are pending in the application prior to entry of the amendments set forth herein.

Claim 40 has been amended to specify that the assimilable carbon skeleton energy component is present in an amount sufficient to stimulate the growth of plants. Support for this amendment may be found in the specification and the originally filed claims, e.g., originally filed Claim 40.

Claims 29-39 and 42-51 have been cancelled. The cancellation of claims is made without prejudice to renewal, without intent to acquiesce to any rejection, and without intent to surrender any subject matter encompassed by the canceled claims. Applicants expressly reserve the right to pursue any canceled subject matter in one or more continuation and/or divisional applications.

Claims 69 and 74 have been added as new. These claims represent subject matter of Claims 52 and 57-61 indicated as allowable. Accordingly, newly added Claim 69 represents allowable Claim 52 re-written in independent form including all of the limitations of the base claim and any intervening claims. Newly added claim 70 represents allowable Claim 57 re-written in independent form including all of the limitations of the base claim and any intervening claims and newly added Claims 71-74 depend from Claim 70 and represent allowable claims 58-61.

In view of the above amendments and the following remarks, the Examiner is respectfully requested to withdraw the rejections and allow Claims 40-41 and 52-74, the only claims pending in this application.

No new matter has been added.

As no new matter has been added by the above amendments, the Applicants respectfully request the entry thereof.

SPECIFICATION

The specification has been objected to for assertedly failing to state the relationship between application serial no. 07/242,951 and application serial no. 07/354,155 in the paragraph referencing related applications. However, the Applicants respectfully submit that the relationship between application serial no. 07/242,951 and application serial no. 07/354,155 is stated as Application Serial No. 07/354,155 is a continuation-in-part of Application Serial No. 07/242,951. The paragraph submitted in the Applicant's amendment and response dated September 26, 2003, responsive to the Office Action dated May 28, 2003 and reproduced herein, states this relationship in the last sentence (emphasis added):

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This application is a continuation of Application Serial No. 09/615,930, filed on July 13, 2000, now U.S. Patent No. 6,318,023, which is a continuation of Application Serial No. 09/139,531, filed on August 25, 1998, now U.S. Patent No. 6,309,440, which is a continuation of Application Serial No. 08/795,192, filed February 4, 1997, now U.S. Patent No. 5,797,976, which is a continuation-in-part of Application Serial No. 07/242,951, filed September 9, 1988, now abandoned and a continuation-in-part of Application Serial No. 07/354,155, filed May 19, 1989, now abandoned which is a continuation-in-part of Application Serial No. 07/242,951 filed September 9, 1988, now abandoned.

Accordingly, because the relationship between application serial no. 07/242,951 and application serial no. 07/354,155 in the paragraph referencing related applications is clearly stated, the Applicant respectfully requests the objection to the specification be withdrawn.

REJECTION UNDER 35 U.S.C. §102(b)

Claims 40 and 41 were rejected under 35 U.S.C. §102(b) as being anticipated by JP55-40723.

Claim 40, and the claims that depend therefrom, have been amended to specify that the assimilable carbon skeleton energy component is present in an amount sufficient to stimulate the growth of plants. Nowhere in the cited reference is an assimilable carbon skeleton energy component taught that is present in an amount effective for stimulating the growth of plants. For example, the Examiner refers to "glucose" of page 11. However, this glucose is a component in a culturing medium to culture *Bacillus subtilis* and is not intended for, nor suited for, promoting growth in plants. Likewise, it is taught that corn steep liquor (CSL) of page 13 is "for general bacteria" and it does not teach that this CSL is intended for, nor suited for promoting the growth of plants. More specifically, the concentrations of the glucose (1 gram/L (0.1%)) referred to by the Examiner, as well as the corn steep liquor (0.01%) and crude protein (0.5% - 1.0%) mentioned in the reference, are merely suited for supporting microbial growth and are insufficient to stimulate plant growth.

Accordingly, for at least the reasons described above, the Applicants respectfully request that this rejection be withdrawn.

BEST AVAILABLE COPYAtty Dkt. No.: YAMA-601CON9
USSN: 00/912,032**OBVIOUSNESS UNDER 35 U.S.C. § 103**

Claims 66-68 were rejected under 35 U.S.C. § 103(a) as being unpatentable over JP55-40723.

As noted above, independent Claim 40, from which Claims 66-68 depends, specify that the assimilable carbon skeleton energy component is present in an amount sufficient to stimulate the growth of plants. Nowhere in the cited reference is an assimilable carbon skeleton energy component taught that is present in an amount effective for stimulating the growth of plants. Furthermore, an assimilable carbon skeleton energy component present in an amount effective for stimulating the growth of plants is not suggested in the cited reference as the cited reference teaches components, e.g., glucose, present in amounts that are merely suited for supporting microbial growth, but which are insufficient to stimulate plant growth.

Accordingly, for at least the reasons described above, the Applicant respectfully requests that this rejection be withdrawn.

ALLOWABLE SUBJECT MATTER

Claims 52 and 57-61 have been objected to as being dependant upon a rejected base claims, but would be allowable if re-written in independent form including all the limitation of the base claim and any intervening claims. The Applicant thanks the Examiner for the indication of allowance.

Accordingly, newly added Claim 69 represents allowable Claim 52 re-written in independent form including all of the limitations of the base claim and any intervening claims and newly added claim 70 represents allowable Claim 57 re-written in independent form including all of the limitations of the base claim and any intervening claims. Newly added Claims 71-74 depend from Claim 70 and represent allowable claims 58-61.

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CONCLUSION

In view of the remarks, this application is considered to be in good and proper form for allowance and the Examiner is respectfully requested to pass this application to issue.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815, reference no. YAMA001CON9.

Respectfully submitted,
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Date: 4/5/04

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